

**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**RANDALL KELTON, ET AL.**

§

**VS.**

§

**§ CIVIL ACTION NO. 4:14-CV-149-O**

§

**EVERHOME MORTGAGE COMPANY**

§

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION RECOMMENDING  
DISMISSAL OF PLAINTIFFS' CASE**

On April 10, 2014, the Court issued an Order to Submit Joint Status Report and Proposed Discovery Plan ("Order"). In the Order the Court ordered the parties to, within 28 days, file a Joint Status Report that included certain specified information. Thereafter, on May 16, 2014, the Court issued an Order Regarding Parties' Failure to Comply With Order to Submit Joint Status Report and Proposed Discovery Plan ("Show Cause Order"). In the Show Cause Order, the Court, noting that the parties wholly failed to comply with the Court's April 10, 2014 Order, stated:

Therefore, it is **ORDERED** that the parties comply with the provisions set forth in the Order no later than **May 30, 2014**. Failure to timely file the Joint Status Report or failure to cooperate in the preparation and filing of the Joint Status Report may result in the imposition of sanctions, including dismissal or entry of default without further notice. *See* Fed. R. Civ. P. 16(f).

Thereafter, on May 30, 2014, Defendant filed a proposed scheduling order. In such filing, the Defendant stated, "On May 16, 2014, counsel for Defendant sent correspondence to [Plaintiffs] Mr. Wethy and Mr. Kelton enclosing this Proposed Scheduling Order and requesting input on the proposed dates. As of the date of filing, no response has been received."

Because the Plaintiffs have wholly failed to comply with the Court's April 10, 2014 and May 16, 2014 Orders and have been notified that failure to comply may result in dismissal without further notice, the Court recommends dismissal of the above-styled and numbered cause.

**NOTICE OF RIGHT TO OBJECT TO PROPOSED  
FINDINGS, CONCLUSIONS AND RECOMMENDATION  
AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions and recommendation within fourteen (14) days after the party has been served with a copy of this document. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(b)(1). Failure to file, by the date stated above, a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge. *See Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

**ORDER**

Under 28 U.S.C. § 636, it is hereby **ORDERED** that each party is granted until **June 18, 2014** to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions and recommendation. It is further **ORDERED** that if objections are filed and the opposing party chooses to file a response, the response shall be filed within seven (7) days of the filing date of the objections.

It is further **ORDERED** that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED June 4, 2014.



---

JEFFREY L. CURETON  
UNITED STATES MAGISTRATE JUDGE

JLC/knv